



DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Centers for Medicare & Medicaid Services

42 CFR Part 409

[CMS-1611-CN]

RIN 0938-AS14

Medicare and Medicaid Programs; CY 2015 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a technical error in the final rule that appeared in the **Federal Register** on November 6, 2014, entitled "Medicare and Medicaid Programs; CY 2015 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies."

DATES: Effective Date: This document is effective on January 1, 2015.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014-26057 of November 6, 2014 (79 FR 66032), there was a technical error identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had been included in the document that appeared in the November 6, 2014 **Federal Register**. Accordingly, the correction is effective January 1, 2015.

II. Summary of Errors

On page 66104, in our discussion about our decision to finalize the proposed changes to the regulations at §409.44, we inadvertently stated that the changes were effective for episodes “ending” on or after January 1, 2015. Consistent with the comment response prior to the final decision discussion on page 66104 stating that “[t]he new therapy reassessment requirement will apply to episodes that begin on or after January 1, 2015,” we meant to state that the therapy reassessment changes finalized in the regulations at §409.44 are effective for episodes “beginning” on or after January 1, 2015. At least every 30 days a qualified therapist (instead of an assistant) must provide the needed therapy service and functional reassessment of the patient. Where more than one discipline of therapy is being provided, a qualified therapist from each of the disciplines must provide the needed therapy service and functionally reassess the patient at least every 30 days. Therapy reassessments are to be performed using a method that would include objective measurement, in accordance with accepted professional standards of clinical practice, which enables comparison of successive measurements to determine the effectiveness of therapy goals. Such objective measurements would be made by the qualified therapist using measurements which assess activities of daily living that may include but are not limited to eating, swallowing, bathing, dressing, toileting, walking, climbing stairs, or using assistive devices, and mental and cognitive factors. The measurement results and corresponding effectiveness of the therapy, or lack thereof, must be documented in the clinical record.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the

notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Since this correction document is simply correcting an applicability date for one provision, it is unnecessary to follow the notice and comment procedure in this instance. We therefore believe that we have good cause to forego notice and a period for comment.

IV. Correction of Errors

In FR Doc. 2014-26057 of November 6, 2014 (79 FR 66032), make the following correction:

1. On page 66104, in the third column, in the fifth paragraph beginning with “Final Decision”, in the third line of the first sentence, remove “ending” and add “beginning” in its place.

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Dated: November 25, 2014.

C'Reda Weeden,
Executive Secretary to the
Department,
Department of Health and Human
Services.

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